

REMARKS

In response to the Office Action of December 8, 2009, no claims have been amended or cancelled.

Applicant notes that in section 2 of the Office Action it is stated that claims 1, 4-8, 10, 11, 13-16, 18, 19, 21-26, 29, 31-41, 43 and 44 are pending. Claim 28 is not listed as pending, nor is it included in the claim rejections. However, Applicant did not cancel claim 28 in the Amendment filed on October 5, 2009, nor was it cancelled in any earlier amendments. Therefore, Applicant submits this claim should be considered pending. In addition, Applicant also notes that claim 13 is listed as pending, however, this claim was cancelled in the Amendment filed on October 5, 2009. Therefore, claim 13 should not be considered pending.

Claim Rejections - 35 USC §103

At section 5 of the Office Action, claims 1, 4-8, 10, 11, 13-16, 18, 19, 21-26, 29, 31-41, 43, and 44 are rejected under 35 USC §103(a) as unpatentable under US patent 6,226,618, Downs, et al (hereinafter Downs) in view of U.S. publication 2007/0162398 Tadayon et al. (hereinafter Tadayon).

With respect to claim 1, it is asserted that Downs discloses the method as claimed, except that it does not disclose that the package includes information indicative of the conditions in which the distribution of the package is allowed. However, it is asserted that this feature is taught by Tadayon, with reference to the Abstract and Figures 2 and 3. It is therefore asserted that the combination of Downs and Tadayon involves the simple substitution of one known element for another producing a predictable result, which renders claim 1 obvious. Applicant respectfully disagrees.

Tadayon relates to a method, system and computer program product for transferring a digital work, including receiving by a first device a first digital work including digital content which is associated with usage rights and transfer permission information; sending to a server a request to transfer the digital content to a second device, the request indicating an identification of the second device; receiving from the

server permission to transfer the digital content, the permission being generated based on the identification indicated by the request and the permission indicating new usage rights associated with the digital content; and transferring the digital content associated with the new usage rights to the second device (Tadayon, Abstract).

The Office asserts that Tadayon teaches a package including both the media object and information indicative of the conditions in which the distribution of the package is allowed, referring to digital work 200 in Figure 2, which includes usage rights 212 and content 210. The items 212 and 312 in Figure 2 of Tadayon are usage rights, not information indicative of the conditions in which the distribution of the package is allowed. Further, these usage rights are not examined before the digital work (200, 202) is transmitted to the end users. Tadayon discloses in paragraph [0024]:

“In the example of the preferred embodiment, user 130 has a right to use content 210, and user 132 has a right to use content 310. Content 210 and content 310 have usage rights 212 and 312 respectively associated therewith and users 130 and 132 have respective licenses to use content 210 and content 310 in accordance with the usage rights.”

Thus, in Tadayon, the user needs a license to use the content. Tadayon does not provide any disclosure stating how the usage rights and the license are used to confirm that the user has right to use the content, nor does Tadayon state that the usage rights are indicative of the conditions in which the distribution of the packet is allowed. Using the content which has already been downloaded to a device is distinct from examining information indicative of the conditions in which the distribution of the package is allowed to determine whether the distribution of the package is allowed, as set forth in claim 1. As stated by the Office at pages 3-4 of the Office Action, Downs also fails to disclose that the package includes information indicative of the conditions in which the distribution of the package is allowed.

Furthermore, Downs is also silent on the claimed feature of verifying the integrity of information contained in a package for distribution by an electronic device. According to step 143 in col. 19 the Clearinghouse(s) receives the order SC, opens it and verifies

that none of the data has been tampered with. This is not the same as checking whether a package to be transmitted is tampered with or not.

Steps 144—148 in column 19 disclose the transmission of the content to the end-user devices. These transmission steps do not include verifying the integrity of information contained in a package for distribution. The content is simply encrypted if the received order SC and other prerequisites have been complied with. Further, the transmission steps also do not disclose that if the verification of the integrity of the package fails, prohibiting the distribution of the package. Downs is silent on this feature. Furthermore, the cited portion of Downs (column 7, lines 18-24) with respect to verifying says nothing about verifying for purposes of distribution of a package as claimed herein.

Therefore, for the foregoing reasons, Applicant respectfully submits that the combination of Downs and Tadayon does not render obvious the invention of claim 1, as the combination fails to teach each feature of claim 1. Applicant respectfully submits claim 1 is in allowable form.

Because independent claims 11, 19, 25, 29, 31-33, 41, and 44 comprise similar features to claim 1 and are rejected on similar grounds, it is respectfully submitted that independent claims 11, 19, 29, 31, 33, 41, and 44 are also distinguished over Downs for the reasons presented above with respect to claim 1.

Dependent claims 4-8, 10, 14-16, 18, 21-26, 28, 32, 34-40, and 43 are also distinguished over Downs at least in view of the dependency of each of these claims from an independent claim which is believed to be allowable.

It is therefore respectfully submitted that the present application as amended is in condition for allowance and such action is earnestly solicited.

The undersigned respectfully submits that no fee is due for filing this Response. The Commissioner is hereby authorized to charge to deposit account 23-0442 any fee deficiency required to submit this paper.

Respectfully submitted,

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